



Public Notice

U.S. Army Corps of Engineers, Norfolk District

March 18, 2015

CENAO-WR-R
NAO-2014-1362/14-V1049

PUBLIC NOTICE

The District Commander has received a permit application for work described below:

APPLICANT

Matthew Nelson
2313 W. Great Neck Road, Apt. 109
Virginia Beach, VA 23451

WATERWAY AND LOCATION OF THE PROPOSED WORK: The project is located in a tributary to the Western Branch of the Lynnhaven River, at 4404 Tree Chop Circle in Virginia Beach, Virginia.

PROPOSED WORK AND PURPOSE: The applicant proposes to construct a new pier and mechanically dredge approximately 1,283 square feet (135 cubic yards) to a depth not to exceed -4.5 feet mean low water (MLW) for a single residence boat basin that will provide ingress/egress to a previously approved Special Service District channel. The dredge material will be taken by barge to the Thalia Creek transfer site located near Virginia Beach Boulevard and Thalia Road. The dredge material will then be loaded onto sealed trucks and transported to the USACE and VDEQ approved Whitehurst Borrow Pit on Oceana Boulevard for disposal.

Direct impacts include 1,023 square feet of sub-aqueous bottom and 260 square feet of non-vegetated intertidal wetlands (mudflats). Indirect impacts include 1,699 square feet of sub-aqueous bottom, 281 square feet of non-vegetated intertidal wetlands (mudflats), and 65 square feet of vegetated wetlands. The design avoids impacts to submerged aquatic vegetation (SAV), oyster grounds and shellfish leases, and fisheries and protected species. The applicant proposes to mitigate for direct and indirect impacts to vegetated wetlands and non-vegetated intertidal wetlands (mudflats) through the purchase of credits from the Virginia Aquatic Restoration Trust Fund (VARTF) and/or an in-lieu fee trust fund.

In addition to the required Department of the Army permit, the applicant must obtain a Virginia Water Protection Permit/401 certification from the Virginia Department of Environmental Quality assuring that applicable laws and regulations pertaining to water quality are not violated and a permit from the Virginia Beach Wetlands Board. Project drawings are attached.

AUTHORITY: Permits are required pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

FEDERAL EVALUATION OF APPLICATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected from the proposal must be balanced against its reasonably foreseeable detriments. All of the proposal's relevant factors will be considered, including conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use classification, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the direct, indirect, and cumulative impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. Anyone may request a public hearing to consider this permit application by writing to the District Commander within 30 days of the date of this notice, stating specific reasons for holding the public hearing. The District Commander will then decide if a hearing should be held.

Preliminary review indicates that: (1) no environmental impact statement will be required; (2) after conducting the NAO ESA Project Review Process, no listed/proposed/candidate species and/or designated/proposed critical habitat under the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884), as amended) will be affected. Based on this no effect determination, no further coordination with the Fish and Wildlife Service is required; and (3) no known properties eligible for inclusion or included in the National Register of Historic Places are in or near the permit area, or would likely be affected by the proposal. Additional information might change any of these findings.

For compliance with the Coastal Zone Management Act of 1972, as amended for projects located in Tidewater, the applicant must certify that federally licensed or permitted activities affecting Virginia's coastal uses or resources will be conducted in a manner consistent with the Virginia Coastal Zone Management Program (VCP) and obtain concurrence from the Department of Environmental Quality (DEQ), Office of Environmental Impact Review (OEIR). We have not received a certification from the applicant prior to publication of this public notice. It is the applicant's responsibility to submit a consistency certification to the Office of Environmental Impact Review for concurrence or objection and proof of concurrence must be submitted to the Corps prior to final permit issuance. A template federal consistency certification can be found here: <http://www.deq.virginia.gov/Programs/EnvironmentalImpactReview/FederalConsistency>

[Reviews.aspx#cert](#) . For more information or to obtain a list of the enforceable policies of the VCP, contact the Department of Environmental Quality, Office of Environmental Impact Review at (804) 698-4330 or e-mail: ellie.irons@deq.virginia.gov or john.fisher@deq.virginia.gov.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The Western Branch of the Lynnhaven River contains Essential Fish Habitat (EFH) for the egg, larval, juvenile, and adult life stages of 16 species including red hake (*Urophycis chuss*), windowpane flounder (*Scopthalmus aquosus*), Atlantic sea herring (*Clupea harengus*), bluefish (*Pomatomus saltatrix*), Atlantic butterfish (*Peprilus triacanthus*), summer flounder (*Paralichthys dentatus*), scup (*Stenotomus chrysops*), black sea bass (*Centropristus striata*), king mackerel (*Scomberomorus cavalla*), Spanish mackerel (*Scomberomorus maculatus*), cobia (*Rachycentron canadum*), red drum (*Sciaenops ocellatus*), sand tiger shark (*Odontaspis taurus*), Atlantic sharpnose shark (*Rhizoprionodon terraenovae*), dusky shark (*Charcharinus obscurus*), and sandbar shark (*Charcharinus plumbeus*). The habitat which this project would affect consists of shallow water habitat only. The proposed project is described in Proposed Work and Purpose, above. Our assessment of the project leads us to a preliminary determination that it will not have a substantial adverse effect on EFH and therefore expanded EFH consultation is not required. Our rationale for this preliminary determination is based on the expected short-term nature of the direct impacts, minimal increases in turbidity, and the absence of submerged aquatic vegetation and anadromous fish spawning habitat. Based on comments from the NOAA Fisheries Service in response to this public notice, further EFH consultation may be necessary.

COMMENT PERIOD: Comments on this project should be made in writing, addressed to the Norfolk District, Corps of Engineers (ATTN: Nancy Hankins, CENAO-WR-R), 803 Front Street, Norfolk, Virginia 23510-1096, and should be received by the close of business on April 18, 2015.

PRIVACY & CONFIDENTIALITY: Comments and information, including the identity of the submitter, submitted in response to this Public Notice may be disclosed, reproduced, and distributed at the discretion of the U.S. Army Corps of Engineers. Information that is submitted in connection with this Public Notice cannot be maintained as confidential by the U.S. Army Corps of Engineers. Submissions should not include any information that the submitter seeks to preserve as confidential.

If you have any questions about this project or the permit process, contact Ms. Nancy Hankins via email at nancy.d.hankins@usace.army.mil or via telephone at (757)201-7044.

Attachment: Drawings